

ESTTA Tracking number: **ESTTA217667**

Filing date: **06/13/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92048480
Party	Plaintiff Sinbad Grand Cafe, LLC
Correspondence Address	Natu J. Patel The Patel Law Firm, P.C. 2532 Dupont Drive Irvine, CA 92612 UNITED STATES NPatel@thePatelLawFirm.com
Submission	Reply in Support of Motion
Filer's Name	Natu J. Patel
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Date	06/13/2008
Attachments	Sinbad Reply to Opposition.pdf ( 17 pages )(1269003 bytes ) NPatel Declaration.pdf ( 33 pages )(5367592 bytes )

**IN THE UNITED STATES PATENT AND TRADE MARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

*In the matter of Registration No. 2782619  
Issued on November 11, 2003*

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SINBAD GRAND CAFÉ, LLC.

Petitioner,

v.

AL-FAKHER FOR TABACCO  
TRADING & AGENCIES CO. LTD.

Respondent.

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)  
) **Cancellation No. 92048480**  
)

) **Assigned for All Purposes to the United**  
) **States Patent and Trademark Office**  
) **Trademark Trial and Appeal Board**  
)

) **PETITIONER SINBAD GRAND**  
) **CAFÉ'S REPLY TO RESPONDENT'S**  
) **OPPOSITION TO PETITIONER'S**  
) **MOTION TO COMPEL;**  
) **MEMORANDUM OF POINTS AND**  
) **AUTHORITIES; SUPPLEMENTAL**  
) **DECLARATION OF NATU J. PATEL**  
) **IN SUPPORT THEREOF**  
)

) **Petition Filed: November 21, 2007**  
) **Discovery Period Closes: October 28, 2008**  
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## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **INTRODUCTION**

Respondent Al-Fakher For Tobacco Trading & Agencies, Co., LTD., (“Registrant”) has filed a woefully inadequate opposition (“Opposition”) to the Motion to Compel Supplemental Responses (“Motion”) from Registrant to Petitioner’s Special Interrogatories, Set One (“SI”) filed by Petitioner Sinbad Grand Café, LLC, (“Petitioner”). The Opposition presents no substantive facts or legal arguments to justify the Trademark and Appeals Board’s (“TTAB”) denial of the Motion. In fact, there are more justifications to grant the Motion because:

- Registrant’s objections that SI seek information far outside the scope under F.R.C.P. rule 26 (b)(1) are without merit since Registrant’s business relevant to Al-Fakher trademark (“Trademark”) commenced on January 10, 1995 in the Middle East and in the United States .
- Petitioner is entitled to conduct discovery for the relevant period to determine the validity of the statements made in the statement of use since grounds for cancellation alleged in the Petition for Cancellation (“Petition”) include fraud in the statement of use.
- Even though Registrant is a Jordanian corporation, its activities in foreign territories with third parties may have been related to its activities in the United States pertaining to trademark and therefore, such activities are within the scope of discovery in this cancellation proceedings.
- Even assuming that Registrant’s objections have merit, it must still answer the remaining parts of the questions, which are not overbroad and, at a minimum, must

provide information dating from January 15, 2001, the claimed date of first use in commerce in the statement of use.

- Registrant's objections based on work product are meritless and in bad faith because the SI seek information that was prepared by Registrant in the ordinary course of business, not in anticipation of litigation and, thus, should be overruled by the TTAB.
- Respondent's supplemental responses are grossly deficient and have failed to address the issues raised in Petitioner's Motion; the TTAB must compel Respondent to provide supplemental responses.
- Registrant's counsel's claim that he was first made aware of the status of this action on May 29, 2008 is doubtful since counsel has been involved in the action on behalf of Sierra Network, Inc. and Emil Hakim ("Hakim") from as early as April 23, 2007 in the U.S. District Court in the Central District of California.

## **ARGUMENT**

### **I. REGISTRANT'S OBJECTIONS THAT SI SEEK INFORMATION FAR OUTSIDE THE SCOPE UNDER F.R.C.P. RULE 26 (b)(1) ARE WITHOUT MERIT SINCE SI SEEK REGISTRANT'S BUSINESS INFORMATION RELEVANT TO THE TRADEMARK FOR THE TIME FRAME ADMITTED BY REGISTRANT UNDER OATH**

Registrant's objection that Petitioner's interrogatories seek information "far outside the scope provided for under Rule 26(b)(1) and are ... so overbroad that they are burdensome," is invalid because Petitioner seeks information that is relevant to its Petition.

The Petition seeks to cancel Registrant's trademark based on various grounds, including, fraud in the registration of the mark, fraud in the statement of use, abandonment through non-use and invalid transfer of ownership and naked assignment.

Registrant's predecessor in interest, Bassam Hamade ("Hamade"), claimed January 10, 1995 as the date of first use anywhere in connection with the goods and January 15, 2001 as the date when the Trademark was first used in commerce in the United States, Michigan, when he first filed for trademark protection with the United States Patent and Trademark Office ("USPTO"). (See Supplemental Declaration of Natu J. Patel (the "Supp. Patel Decl.") ¶ 3; Exhibit C) Additionally, in Registrant's own supplemental responses to SI Nos. 5 and 6, it admits, under oath, that "***Registrant's business relevant to the Trademark commenced January 10, 1995 in the Middle East and in the United States.***" (See Registrant's Supplemental Responses; Declaration of Christopher Pham in Support of Opposition) (emphasis added) Therefore, by Petitioner's own admission, discovery as of that date (i.e. January 10, 1995) is relevant to the cancellation proceedings.

For example, Registrant argues that SI Nos. 4, 15-18 and 24 are overbroad because they seek information prior to 2001. Based on Registrant's own admission under oath, it cannot argue, in good faith, that its activity relating to the Trademark prior to 2001 is irrelevant, when its activities in the Middle East and in the United States relating to the Trademark began January 10, 1995. Each of these interrogatories and how they are deficient is explained in detail in the meet and confer matrix that was sent to Registrant on June 12, 2008. (See ¶4 of Supplemental Declaration of Natu J. Patel ("Supp. Patel Decl."); Exhibit D) Petitioner has a right to obtain such information pertaining to Registrant's actions in connection with its own activities relevant to the Trademark that were undertaken in the Middle East and in the United States based on its own admission. The information sought through these specific SI relate to the identification of people who were involved with the Trademark since 1995, which is relevant to establishing whether Registrant or its predecessor in interest sold or distributed goods since 1995, the nature

and extent of those sales or distributions and whether the 1995 date is, in fact, the date of use as claimed by the Registrant or its predecessors in interest.

Since this information is relevant to establish Petitioner's claim for cancellation, Registrant must be compelled to supplement its responses further.

**II. PETITIONER IS ENTITLED TO CONDUCT DISCOVERY FOR THE RELEVANT PERIOD TO DETERMINE THE VALIDITY OF THE STATEMENTS MADE IN THE STATEMENT OF USE SINCE GROUNDS FOR CANCELLATION ALLEGED IN THE PETITION INCLUDE FRAUD IN THE STATEMENT OF USE**

In the Petition, Petitioner alleges that fraud upon the USPTO was committed by way of misrepresentation in the trademark application including, but not limited to, the representation regarding the date of use of the Trademark in interstate commerce. The application states that January 10, 1995 is when the mark was first used anywhere in connection with the goods and January 15, 2001 is when the mark was first used in commerce in the United States. (Supp. Patel Decl. ¶3; Exhibit C) Petitioner is entitled to determine the validity of that statement because inconsistencies and inaccuracies in the same are grounds for cancellation of the Trademark. *Medinol Ltd. v. Neuro Vasx, Inc*, 67 USPQ 2d 1205 (TTAB 2003).

As established by *Medinol*, fraud is committed in connection with a procurement of a registration when the trademark application makes a material representation of fact in its declaration, which it knows or should know to be false or misleading. Furthermore, fraud on the USPTO during the application process taints the entire registration, which is subject to cancellation by the TTAB. An inquiry should be made into the objective manifestation of the applicant's intent and intent must often be inferred from the circumstances related to the procurement of the registration. *Medinol Ltd.*, 67 USPQ 2d 1205.

In *Medinol*, the TTAB reasoned that when Registrant's president signed the statement of use ("Statement of Use"), he knew or should have known that the mark was not in use on all of the goods covered by the application, especially since it was a short list of goods. The TTAB noted that the Statement of Use was signed with a declaration acknowledging that false statements might jeopardize the validity of the application or any resulting registration. Finding that Registrant committed fraud on the USPTO during the application process, the TTAB cancelled the entire registration for the Trademark. *Medinol Ltd.*, 67 USPQ 2d 1205.

Here the Petitioner has alleged in the Petition that the fraud was committed upon the USPTO by the original applicant, Bassam Hamade ("Hamade") during the registration process. In order to establish the fraud during the registration process, Petitioner aims to discover information pertaining sales, use, adverting, promotion, contracts, and on-going use relating to the Trademark from or beginning January 10, 1995 (and most certainly beginning January 15, 2001). This date is relevant, and therefore, Petitioner is entitled to seek information whether or not such sales, use, advertising, promotions and contracts involve Registrant, the original applicant of the Trademark, Hamade, or any assignees of the Trademark. The Petitioner is further entitled to seek Registrant's business information relevant to Trademark until the date the Petition was filed, since Petitioner seeks to cancel Trademark based on abandonment through non-use and invalid transfer of ownership and naked assignment.

Based on above, the Registrant's business information pertaining to the Trademark as of January 10, 1995, is relevant to support Petitioner's claim for cancellation and therefore, Registrant must be compelled to supplement its responses.

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**III. EVEN THOUGH REGISTRANT IS A JORDANIAN CORPORATION, ITS ACTIVITIES IN FOREIGN TERRITORIES WITH THIRD PARTIES MAY HAVE BEEN RELATED TO ITS ACTIVITIES IN THE UNITED STATES PERTAINING TO TRADEMARK AND THEREFORE, SUCH ACTIVITIES ARE WITHIN THE SCOPE OF DISCOVERY IN THIS CANCELLATION PROCEEDINGS**

Registrant's objection that Petitioner's SI No. 4 is overbroad in scope because it asks Petitioner for information pertaining to relations with third parties that "presumably includes relations in foreign territories" and that its "business relations with third parties in foreign territories is not within the scope of Discovery" is unsound.

Registrant is a Jordanian company, doing business in the Middle East and, as explained earlier, admits, under oath, that its business relevant to the Trademark commenced in the Middle East and in the United States in 1995. (See ¶7, Exhibit C to Christopher Q. Pham's Declaration Attached to Opposition) Petitioner is entitled to know whether Registrant has shipped goods to the United States or entered into business licenses with United States citizens, which relate to the Trademark, while in the Middle East as of January 10, 1995. It is likely that a Jordanian company may have been involved in business relationships outside the United States through which goods may have been shipped into the United States. It is very likely that when Registrant engaged in business activities in the Middle East and in the United States relating to Trademark in 1995, there may have been an overlap on those business activities. For example, if Registrant entered into a business contract with another foreign corporation that shipped the product bearing the Trademark in the United States, this information will be very relevant. Furthermore, if Registrant licensed a foreign corporation to sell the product or market the product under the Trademark, this information will also be discoverable. Therefore, Registrant cannot claim that its business relations with third parties in foreign territories are not within the scope of discovery. Although the issue relates to Trademark in the United States, the overseas activities related to



Trademark may have a significant impact on these proceedings. It is difficult to understand as to why Registrant would oppose discovery of such information, when in fact, such information may help in its own defense to this cancellation proceeding. Discovery is governed by what is relevant to the allegations; not where parties are located.

For example, Registrant objects to SI No. 4 on the grounds that it does not limit the request to any particular type of transaction or relation and thus may include the names of purchasers and consumers. This argument has no merit. Registrant knows very well through meet and confer efforts that the SI was not seeking information relating to retail purchasers of goods. However, since Petitioner seeks cancellation based on abandonment through non-use, if the transactions were based on contracts or agreements, information pertaining to these transactions is relevant towards demonstrating continuous, non-interrupted use of the Trademark in interstate commerce (Supp. Patel Decl. ¶ 3; Exhibit D, Page 4). If there were no such large transactions to prove continuous use, and there were only scattered retail transactions, then in such case, Petitioner may be entitled to seek such information through the Registrant. The real issue is, so far, the Registrant has only provided objections and resisted discovery, even though such discovery may aid in its own defense. This must not be tolerated.

Based on above, Petitioner respectfully requests the TTAB to overrule Registrant's objection to the SI as being overbroad in scope and compel Registrant to supplement its responses.

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**IV. EVEN ASSUMING THAT REGISTRANT'S OBJECTIONS HAVE MERIT, IT MUST STILL ANSWER THE REMAINING PARTS OF THE QUESTIONS WHICH ARE NOT OVERBROAD AND, AT A MINIMUM, MUST PROVIDE INFORMATION DATING FROM JANUARY 15, 2001, THE CLAIMED DATE OF FIRST USE IN COMMERCE IN THE STATEMENT OF USE**

As explained before, discovery dating back to 1995 is relevant to the cancellation proceedings and therefore, Petitioner is entitled to this information. Nevertheless, if the TTAB concludes that January 15, 2001 is the relevant date from which Petitioner can seek discovery, Registrant must be compelled to provide sufficient responses as of that date<sup>1</sup>.

A party on which interrogatories have been served should respond to them by stating, with respect to each interrogatory, either an answer or an objection. If an interrogatory is answered, the answer must be made separately and fully, in writing under oath. TBMP §405.04(b).

Petitioner's SI which require Registrant to identify parties specifically request that Registrant give the full name, present or last known address, and the present or last known place of employment. With regard to companies, Petitioner requires the full corporate name, a description of the nature of the company's business, the state of incorporation of the company, the address and principal place of business, and the identities of the officers or other persons having knowledge of this matter. These requirements are laid out in the definition section of Petitioner's SI, set one.

Even assuming that Petitioner's SI are overbroad, as explained above, Registrant must be compelled to provide the requested information dating from January 15, 2001, which is the

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<sup>1</sup> Registrant's statement under oath, in its Supplemental Response to SI Nos. 5 and 6, that "Registrant's business relevant to the Trademark commenced January 10, 1995 in the Middle East and in the United States" creates a serious credibility issue regarding the date of first use in commerce in the United States. If the Board concludes that January 10, 1995 is the date of the first use in the United States, as claimed by the Registrant in its recently verified responses, Petitioner respectfully requests the Board to compel responses dating back to January 10, 1995.

claimed date of first use in commerce by Registrant. Although in its supplemental responses Registrant has, at times, provided the name and location of the company or party at issue, Registrant's responses still lack relevant portions of the information required and are thus deficient.

Thus, Registrant must be compelled to supplement its deficient responses.

**V. REGISTRANT'S OBJECTIONS BASED ON WORK PRODUCT ARE MERITLESS AND IN BAD FAITH BECAUSE THE SI SEEK INFORMATION THAT WAS PREPARED BY REGISTRANT IN THE ORDINARY COURSE OF BUSINESS, NOT IN ANTICIPATION OF LITIGATION AND, THUS, SHOULD BE OVERRULED BY THE TTAB.**

Registrant's objection that Petitioner's SI Nos. 1, 4, 10, 11, 15, 16, and 17 seek expert reports that were either "prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation" is unsound and in bad faith because this is not the context in which the work product doctrine applies. The SI seek information prior to November 2007, the date on which these proceedings began. The work product doctrine protects trial preparation materials that reveal an attorney's strategy, intended lines of proof, evaluation of strengths and weaknesses, and inferences drawn from interviews. FRCP 26(b)(3); see *Hickman v. Taylor*, 329 U.S. 495, 511(1947).

For example, Registrant's objections on this ground to SI No. 4 is baseless because Petitioner mainly seeks information regarding relations between Registrant and third parties including information regarding contracts, licenses, assignments or other relationships. Primarily, it is difficult to grasp how all information pertaining to Registrant's past and existing relations with third parties, including predecessor companies related to the Trademark, could be prepared in anticipation of this litigation since these proceedings began on November 21, 2007.

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<sup>2</sup> Any references to the "Patel Decl." is to the Declaration of Natu J. Patel filed in Support of Petitioner's Motion to Compel Responses to Special Interrogatories with the Board on May 21, 2008.

In addition, the information sought is likely to be maintained by Registrant in the ordinary course of Registrant's business. Petitioner is not requesting any reports that provide internal evaluation of strengths and weaknesses of their case. Petitioner is simply seeking business information. Since Petitioner's SI do not seek trial preparation material, the attorney work-product protection does not apply to this information. Therefore, Registrant must be compelled to supplement its responses to the interrogatories to which it objected to on the basis of attorney work product.

**VI. RESPONDENT'S SUPPLEMENTAL RESPONSES ARE GROSSLY DEFICIENT AND HAVE FAILED TO ADDRESS THE ISSUES RAISED IN PETITIONER'S MOTION; THE TTAB MUST COMPEL RESPONDENT TO PROVIDE SUPPLEMENTAL RESPONSES**

**A. Respondent's supplemental responses are still deficient because Respondent has failed to furnish all information that is under Respondent's control**

Even after supplementing its responses, Registrant still fails to address the information requested. In fact, Registrant's responses are grossly deficient. (Supp. Patel Decl. ¶4; Exhibit D; Pages 1-22) This must not be tolerated because FRCP 33(a) provides that the responding party has a duty to furnish all information that is available to the party. If the information is known to person in the party's employ or over whom he or she has control, the responding party is under a duty to obtain such information and provide it.

As explained earlier in this Reply, Petitioner's discovery request pertaining to sales, use, advertising, promotion, and contracts relating to Trademark are relevant whether or not Registrant was involved in these activities. Even if Registrant claims that it only obtained the Trademark in 2006 and had no involvement whatsoever with Trademark prior to that date or had no relationship with the prior owners and assignees, the Trademark can still be subject to cancellation based on *Medinol* since fraud on the USPTO by Hamade (i.e. the original applicant) is also grounds for cancellation. *Medinol Ltd.*, 67 USPQ 2d 1205. To the extent that Registrant

was not involved in these activities or has no knowledge of other parties' involvement, Registrant must state that in its response. If Registrant does have knowledge, Registrant must provide a complete response and furnish information known to its officers, directors, and other sources under its control.

To the extent that Registrant has failed to respond with information that is under Registrant's control, Registrant must be compelled to supplement its responses.

**B. Respondent's objections are invalid because the interrogatories are not requesting information that is overbroad, privileged or subject to protection; Respondent seeks information that is relevant and discoverable**

Registrant's objections to Petitioner's SI are still without merit because Petitioner is entitled to seek discovery related to the Trademark beginning January 10, 1995, the date on which Registrant admitted, under oath, that Registrant's business relevant to the Trademark commenced in the Middle East and in the United States. Petitioner has provided the detail explanation relating to each interrogatory to Respondent by expending substantial resources before filing the Motion and even after receiving the supplemental responses with its Opposition. Respondent's objections are without merit and responses are grossly deficient. (Supp. Patel Decl. ¶4; Exhibit D; Pages 1-22)

For example, in Registrant's supplemental response to SI No. 1, which simply asks Registrant to identify all of its officers and directors from 1995 to the present, Registrant objects on the grounds that corporate records needed to respond are in the Middle East and contain privileged information under foreign laws. (See ¶7, Exhibit C to Christopher Q. Pham's Declaration Attached to Opposition) This objection is invalid because it is difficult to understand as to how identification relating to officers and directors can be privileged under the laws of any nation. Furthermore, to the extent that Registrant claims protection under

international law, Registrant must supply the specific law in question and specify how the law applies to the specific request and to this USPTO cancellation proceedings.

Furthermore, Registrant's claim of privilege under work product has no basis in law and facts. In its supplemental response to SI No. 1 Registrant claims that "the information requested is contained in reports either prepared by employees of Respondent or accounts and other acting on behalf of Respondent, all in anticipation of litigation." As discussed earlier, it is baffling that the identities of the Registrant's officers and directors from 1995 to the present could be protected work product since these proceedings began only on November 21, 2007. Registrant's objection is in bad faith because information relating to the officers and directors is likely to have been maintained as business records in the normal course of business and thus, must be produced.

Additionally, if the information sought can be protected under the work product doctrine, Registrant must comply with Petitioner's instructions to the SI. For example, section A of the instructions states that in the event privilege is claimed, Registrant must still identify the protection that precludes disclosure, the subject matter of the information (without revealing the content as to which the privilege is claimed) and any additional facts on which Registrant basis the claim of protection. If the interrogatory seeks identification or production of a document that is being withheld on the basis of privilege, the Registrant must produce a privilege log, which meets the criteria set forth in Definition "M" of the SI. Registrant has failed to meet all of these requirements.

Therefore, Registrant must be compelled to supplement its responses.

C. **Even if Registrant's objections are valid, Registrant waived its objections because Registrant failed to file timely Supplemental Responses despite several extensions**

To the extent that Registrant failed to prepare and serve the Responses in a timely manner, Registrant has waived its objections and must be compelled to respond without objections. According to FRCP 33(b)(4), failure to timely respond to interrogatories generally constitutes waiver of any objection thereto.

Registrant first sent its deficient responses to Petitioner's SI more than 35 days after the SI was propounded. (Patel Decl. ¶2)<sup>3</sup> In response, Petitioner attempted to resolve the deficiencies by requesting that Registrant provide supplemental responses. (Patel Decl. ¶¶3-4) Although Registrant requested numerous extensions to provide its supplemental responses and these extensions were granted, Registrant willfully ignored each deadline, thus necessitating the filing of the Motion. (Patel Decl. ¶¶5-16) Registrant has thus waived its objections.

Therefore, Registrant must be compelled to provide supplemental responses without objections.

**D. Sierra Network is merely the exclusive licensee of the Registrant, who acquired the license in 2006, and thus could not have knowledge of all the facts relating to the prior activities pertaining to the Trademark**

Registrant's response to SI No. 25 that Hakim, on behalf of Sierra Network, participated in preparation of the SI demonstrates that Registrant has not been forthcoming with the requested information.

Hakim, who verified the Responses on behalf of Registrant, is the CEO of Sierra Network, Inc., who has been Registrant's exclusive licensee since Registrant acquired the rights to the Trademark in late 2006. Since Petitioner's SI seek information that dates back to 1995, a licensee who started its business relationship with Registrant in 2006 could not be qualified to verify the responses on Registrant's behalf for the facts and circumstances surrounding events that took place from 1995 to the present.

If Hakim has verified these responses based on information that he obtained from Registrant's employees, Hakim must provide the name of each person who supplied such information to him. This information can not be withheld because it is relevant for deposition purposes. Therefore, Registrant must be compelled to supplement its responses and provide verification from an individual from the Registrant's corporation, who in fact, verified the supplemental responses.

**VII. REGISTRANT'S COUNSEL'S CLAIM THAT HE WAS FIRST MADE AWARE OF THE STATUS OF THIS ACTION ON MAY 29, 2008 IS DOUBTFUL SINCE COUNSEL HAS BEEN INVOLVED IN THE ACTION ON BEHALF OF SIERRA NETWORK & HAKIM FROM AS EARLY AS APRIL 23, 2007**

The validity of Registrant's argument that its current counsel should not be subject to sanctions for conduct, which was created by its old counsel and that the Respondent and its current counsel, Mr. Christopher Pham ("Mr. Pham") were not aware of what was going on really does not make sense. In fact, the record is very clear that Mr. Pham made appearance on behalf of Sierra Network, the exclusive licensee of the Registrant on the Trademark infringement litigation in the Central District of California in the U.S. District Court on April 23, 2008. (Supp. Patel Decl. ¶1; Exhibit A)

Registrant vehemently claims that its current counsel did not take on this case until after the conduct at issues took place and "was retained in an effort to rectify the current state of the situation." In light of the fact that Registrant's current counsel has been involved in the matter long before this discovery dispute arose, Registrant's statements raises doubt as to the validity of its statement in supporting declaration filed with its Opposition.

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## VIII. CONCLUSION

Based on the foregoing, Petitioner respectfully requests the Board to grant its Motion and issue appropriate sanctions that the Board deems proper.

Dated: June 13, 2008

Respectfully Submitted,  
THE PATEL LAW FIRM, P.C.

By:   
\_\_\_\_\_  
Natu J. Patel  
Attorney for Petitioner  
Sinbad Grand Cafe, LLC

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing PETITIONER SINBAD GRAND CAFÉ'S REPLY TO RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION TO COMPEL; MEMORANDUM OF POINTS AND AUTHORITIES; SUPPLEMENTAL DECLARATION OF NATU J. PATEL IN SUPPORT THEREOF was served by First-Class mail and electronic mail, upon attorneys for Respondent, this 13<sup>th</sup> day of June, 2008 as follows:

Christopher Q. Pham, Esq.  
Gareeb | Pham LLP  
Aon Center  
707 Wilshire Blvd. 53rd Floor  
Los Angeles, CA 90017

*In the matter of Registration No. 2782619  
Granted Registration on November 11, 2003*

Petition Filed: November 21, 2007

SUPPLEMENTAL DECLARATION OF NATU J. PATEL IN SUPPORT OF PETITIONER'S REPLY TO RESPONDENT'S  
OPPOSITION TO PETITIONER'S MOTION TO COMPEL RESPONDENT'S RESPONSES TO SPECIAL INTERROGATORIES  
(SET ONE) PROPOUNDED ON FEBRUARY 6, 2008.

2. Attached hereto as **Exhibit B** is a true and correct copy of the assignments of title in the trademark, AL-FAKHER, from the USPTO website. The assignment records indicate that Respondent, a Jordanian corporation located in Amman, Jordan, received the interest in AL-FAKHER trademark on or about August 30, 2006.

3. Attached hereto as **Exhibit C** is a true and correct copy of a Response to Office Action, downloaded from the USPTO website, for the trademark AL-FAKHER, which shows that January 10, 1995 is when the mark was first used anywhere in connection with the goods and January 15, 2001 is when the mark was first used in commerce in the United States.

4. Attached hereto as **Exhibit D** is a true and correct copy of a meet and confer letter (with the attached matrix), sent to Christopher Pham on June 12, 2008, outlining the deficiencies in Respondent's Supplemental Responses to Special Interrogatories – Set One.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 12<sup>th</sup> day of June 2008 at Irvine, California.

Dated: June 12, 2008

By:   
\_\_\_\_\_  
Natu J. Patel  
Attorney for Petitioner  
Sinbad Grand Café, LLC

The Patel Law Firm, P.C.  
2532 Dupont Drive  
Irvine, CA 92612  
Telephone: (949) 955-1077  
Facsimile: (949) 955-1877  
npatel@thePatelLawFirm.com

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing SUPPLEMENTAL DECLARATION OF NATU J. PATEL IN SUPPORT OF PETITIONER'S REPLY TO RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION TO COMPEL RESPONDENT'S RESPONSES TO SPECIAL INTERROGATORIES (SET ONE) PROPOUNDED ON FEBRUARY 6, 2008 was served by First-Class mail and electronic mail, upon attorneys for Respondent, this 13<sup>th</sup> day of June, 2008 as follows:

Christopher Q. Pham, Esq.  
Gareeb | Pham LLP  
Aon Center  
707 Wilshire Blvd. 53rd Floor  
Los Angeles, CA 90017

# **EXHIBIT A**

**Natu Patel**

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**From:** cacd\_ecfmail@cacd.uscourts.gov  
**Sent:** Wednesday, April 23, 2008 12:55 AM  
**To:** ecfnef@cacd.uscourts.gov  
**Subject:** Activity in Case 2:07-cv-06104-DSF-CT Sierra Network, Inc. v. Akram Allos et al Response in Opposition to Motion

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended. Direct all inquiries to [ecf-helpdesk@cacd.uscourts.gov](mailto:ecf-helpdesk@cacd.uscourts.gov).  
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**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**

**Notice of Electronic Filing**

The following transaction was entered by Pham, Christopher on 4/23/2008 at 0:54 AM PDT and filed on 4/23/2008

**Case Name:** Sierra Network, Inc. v. Akram Allos et al  
**Case Number:** 2:07-cv-6104  
**Filer:** Sierra Network, Inc.  
**Document Number:** 10

**Docket Text:**

OPPOSITION to MOTION to Dismiss Case *OR in the Alternative To Dismiss Plaintiff's Fourth, Seventh, Eighth, Ninth, Eleventh, And Thirteenth Claims For Relief*[9] *Opposition to Motion to Dismiss* filed by Plaintiff Sierra Network, Inc.. (Pham, Christopher)

**2:07-cv-6104 Notice has been electronically mailed to:**

Seyed Abbas Kazerounian ak@kazlg.com

Natu J Patel npatel@thepatellawfirm.com, jchoi@thepatellawfirm.com

Christopher Q Pham cpham@gareebpham.com

Fahed Freddy Sayegh fsayegh@spattorney.com

**2:07-cv-6104 Notice has been delivered by First Class U. S. Mail or by fax to :**

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**Document description:**Main Document

**Original filename:**C:\Documents and Settings\vtello\Desktop\Opposition Mtn To Dismiss.pdf

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06/12/2008

# **EXHIBIT B**





## United States Patent and Trademark Office

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## Assignments on the Web &gt; Trademark Query

## Trademark Assignment Abstract of Title

## Total Assignments: 3

Serial #: 76315226

Filing Dt: 09/21/2001

Reg #: 2782619

Reg. Dt: 11/11/2003

Registrant: Hamade, Bassam

Mark: AL-FAKHER

## Assignment: 1

Reel/Frame: 2981/0196

Received: 11/22/2004

Recorded: 11/22/2004

Pages: 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: HAMADE, NADINE

Exec Dt: 11/16/2004

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Assignee: HAMADE, NADINE

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Correspondent: AL-FAKHER

NADINE HAMADE

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## Assignment: 2

Reel/Frame: 3322/0251

Received: 06/02/2006

Recorded: 06/02/2006

Pages: 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: HAMADE, NADINE

Exec Dt: 06/01/2006

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Entity Type: INDIVIDUAL

Citizenship: SYRIAN ARAB REPUBLIC

Assignee: SARMINI, OMAR KHALED

AL RASHDIEH STREET

AJMAN, UNITED ARAB EMIRATES

Correspondent: NADINE HAMADE

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## Assignment: 3

Reel/Frame: 3401/0260

Received: 10/03/2006

Recorded: 10/03/2006

Pages: 4

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: SARMINI, OMAR KHALED

Exec Dt: 08/30/2006

Entity Type: INDIVIDUAL

Citizenship: SYRIAN ARAB REPUBLIC

Entity Type: CORPORATION

Citizenship: JORDAN

Assignee: AL-FAKHER FOR TABACCO TRADING & AGENCIES CO. LTD.

P.O. BOX 911145

AMMAN, JORDAN 11191

Correspondent: VICTOR M. TANNENBAUM

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## Assignments on the Web &gt; Trademark Query

## Trademark Assignment Assignee Details

**Assignee Name : AL-FAKHER FOR TABACCO TRADING & AGENCIES CO. LTD.****Total Assignments: 1****Assignment: 1****Reel/Frame:** [3401/0260](#)**Received:** 10/03/2006**Recorded:** 10/03/2006**Pages:** 4**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor****1** [SARMINI, OMAR KHALED](#)**Exec Dt:** 08/30/2006**Entity Type:** INDIVIDUAL**Citizenship:** SYRIAN ARAB REPUBLIC**Assignee****1** [AL-FAKHER FOR TABACCO TRADING & AGENCIES CO. LTD.](#)  
P.O. BOX 911145  
AMMAN, JORDAN 11191**Entity Type:** CORPORATION**Citizenship:** JORDAN**Property****Ser. #**      **Reg. #**[76315226](#)    [2782619](#)**Correspondence name and address**VICTOR M. TANNENBAUM  
666 THIRD AVENUE  
NEW YORK, NY 10017**Domestic representative**ABELMAN FRAYNE & SCHWAB  
666 THIRD AVENUE  
NEW YORK, NY 10017

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# **EXHIBIT C**

August 5, 2002

\*\*Please place on Upper Right Corner\*\*  
\*\*of Response to Office Action ONLY.\*\*

Examining Attorney: DEJESUS, YSA

Serial Number: 76/315226



## **RESPONSE TO OFFICE ACTION**

**Applicant's Name= BASSAM HAMADE**

**Mark=AL-FAKHER**

**Filing Date= February 13, 2002**

**Telephone NO.= (313) 274-2783**

**Zip Code= 48128**

*Dejesus, Ysa= Law Office 101 (734) 308 9101 x 251*

**(2) The date of the applicant's first use of mark anywhere on or in connection with the goods or services;**

**January 10, 1995 is when the mark was first used anywhere in connection with the goods.**

**(3) The date of the applicant's first use of the mark in commerce as a trademark or service mark;**

**January 15, 2001 is when the mark was first used in commerce. (United States of America [Michigan])**

**Sincerely,**

**BASSAM HAMADE**

# **EXHIBIT D**

#### GENERAL ARGUMENTS APPLICABLE TO ALL DEFICIENT SUPPLEMENTAL RESPONSES

The Petition for Cancellation (the "Petition") filed by Sinbad Grand Café ("Sinbad" or "Petitioner") seeks to cancel the TRADEMARK based on various grounds, including the fraud during registration by filing the fraudulent Statement of Use with the USPTO. The original applicant, Bassam Hamade ("Hamade"), during the filing of the Statement of Use, claimed January 10, 1995 as the date when the TRADEMARK was first used in connection with the goods. Hamade also claimed January 15, 2001 as the date when Hamade first used the TRADEMARK in commerce (United States of America – Michigan). Therefore, these two dates are extremely relevant from the discovery perspective in this TRADEMARK cancellation proceeding.

The cancellation proceeding in the Trademark Trial and Appeal Board ("TTAB" or "Board") case of *Medinol Ltd. v. Neuro Vaxx* (67 USPQ 2d 1205, TTAB, May 2003) held that the Registrant, Neurovasx's ("NV") sudden honesty did not cure the earlier fraud, and that the fraud on the USPTO tainted the entire registration. The TTAB felt that when NV's president signed the Statement of Use, he knew or should have known that the mark was not in use on all of the goods covered by the application, especially since it was a short list of goods (two items). The TTAB noted that the Statement of Use was signed with a declaration acknowledging that false statements might jeopardize the validity of the application or any resulting registration. It admonished trademark applicants to take such oaths seriously and investigate facts thoroughly prior to submission of a Statement of Use to the USPTO. Finding that NV had committed fraud on the USPTO during the application process, the TTAB cancelled NV's entire registration for NEUROVAXX.

Based on the grounds for cancellation alleged in the Petition, Sinbad is entitled to conduct discovery on periods prior to the time Al-Fakher For Tobacco ("Registrant" or "Al-Fakher") obtained the TRADEMARK through assignment, including time periods when the original applicant, Hamade commenced use of the TRADEMARK and filed the registration application. Sinbad alleges in this cancellation proceeding that there was fraud upon the USPTO by way of misrepresentations in the trademark application including, but not limited to, the representation regarding the use of the TRADEMARK in interstate commerce. The application states that applicant's first such use in connection of the goods was January 10, 1995 and the first use in the commerce in USA was in January 2001. Sinbad is entitled to determine the validity of that statement because inconsistencies and inaccuracies in the same are grounds for cancellation of the TRADEMARK. *Medinol Ltd. v. Neuro Vaxx* (67 USPQ 2d 1205, TTAB, May 2003). Accordingly, Sinbad's discovery requests relating to sales, use, advertising, promotion, contracts, on-going use, etc. relating to the TRADEMARK from or beginning January 10, 1995 (and most certainly beginning January 15, 2001) are very relevant, whether or not such sales, use, advertising, promotion, contracts, on-going use, etc. involve Registrant, or original applicant of the TRADEMARK Hamade, or any assignees of the TRADEMARK until the date of the Petition. To the extent that Al-Fakher was not involved in these issues or has no knowledge of other parties' involvement in such issues, the response simply needs to state the same. However, if Al-Fakher has any knowledge at all, it must provide a complete response because this information is extremely relevant in this proceeding.

Even if Al-Fakher claims that it obtained the TRADEMARK only in 2006 and had no involvement whatsoever prior to that or any relationship with the prior owners/assignees, the TRADEMARK can still be subject to cancellation based on the landmark case, *Medinol*. Fraud upon the USPTO by the original applicant is also grounds for cancellation.

The Petitioner also seeks cancellation based on Abandonment through Non-Use and Naked Assignment. Therefore, all activities that occurred between various owners listed in the assignment chain are also relevant. Furthermore, the activities related to on-going use by the Registrant and all predecessors in interest relating to the TRADEMARK from or beginning January 10, 1995 (and most certainly beginning January 15, 2001) is extremely relevant and hence discoverable. Additionally, by failing to prepare and serve the SUPPLEMENTAL RESPONSES, the Respondent has WAIVED objections and must be compelled to respond without objections.

Based on the foregoing, Sinbad's discovery requests are relevant and certainly not overbroad. The events in question occurred over a vast period of time, all of which are subject to discovery.

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
1	Identify all officers and directors of REGISTRANT from 1995 until the present.	Respondent objects on the grounds that the terms "officers" and "directors" are vague and ambiguous. Plaintiff also objects to the Request on the grounds that the Request is grossly overbroad in scope as to time. Plaintiff additionally objects to this Request to the extent that it seeks information and documentation in violation of the attorney-client privilege and/or Work Product Doctrine.	Respondent has objected to these specific interrogatories because they seek information outside the scope provided for under Rule 26(b)(1) and are thus, over broad. Further, corporate records needed to respond to Petitioner are in the Middle East are not easy to locate or obtain as well as containing privileged information under foreign laws. The information requested by Special Interrogatory 1 is impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product. Without waiving its objections, Respondent states that Mr. Omar Khaled Sarmini was general manager of Registrant in Jordan from 1995 to 2004. In 2004, Mr. Sarmini assigned the company to Mr. Samer Fakhouri who is the owner and an officer of the Al-Fakher entities in Ajman, UAE.  Discovery and investigation are ongoing and continuing.	<p>The Supplemental Response ("Response") does not address the information requested. Additionally, the Response is non-responsive and the objections are without merit for the following reasons:</p> <p>A) Based on the arguments presented above, discovery request is certainly relevant and not overbroad. As explained above, the Petitioner is entitled to seek discovery related to the TRADEMARK beginning January 10, 1995 (and most certainly beginning January 15, 2001). Additionally, the Respondent itself has admitted under oath that the Registrant's business relevant to the TRADEMARK commenced on January 10, 1995 in the Middle East and in the United States (please refer to Responses to Special Interrogatory ("SI") I Nos. 5 and 6).</p> <p>B) Additionally, identification relating to officers and directors cannot be privilege under any laws of any nation. To the extent the Respondent claims protection of international law, the Respondent must supply specific law of the country, the statutes and sections in question, how it applies to this specific request here, and how it is applicable to the USPTO trademark cancellation proceeding. Without such detailed information, the Supplemental Response is non-responsive and conclusory.</p> <p>C) Respondent's claim of privilege under work product privilege has no basis in law and facts and is utterly in bad faith. The information sought can never be protected under work product doctrine. If it does, the Respondent must provide the relevant case law which prohibits disclosure identification of officers and directors under work product privilege doctrine. If Respondent still claims privilege, please identify: (1) the privilege or protection that RESPONDENT claims precludes disclosure; (2) the subject matter of the communication or information (without revealing the content as to which privilege</p>

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
				<p>is claimed); and (3) any additional facts on which RESPONDENT bases its claim of privilege or protection. Please note that we specifically requested this information in Section A of the instructions to the First Set of Special Interrogatories, if privilege is claimed.</p> <p>D) Additionally, this proceeding began on November 21, 2007. It is unlikely that the records and/or information requested were prepared in anticipation of these proceedings.</p> <p>E) Most of the documents and the information requested are likely to have been maintained as business records in the normal course of business. Information from these records must be produced.</p> <p>The SI seeks information relating to the person or persons most knowledgeable about REGISTRANT'S sales, advertising and sales promotion, adoption and use, licensing, and assignment or other transfer of rights. Respondent provided the person most knowledgeable about REGISTRANT'S licensing of its rights. The Response failed to identify the person or persons most knowledgeable about REGISTRANT'S sales, advertising and sales promotion, adoption and use, and assignment or other transfer of rights. The Response must be supplemented.</p> <p>The Petitioner respectfully disagrees that such information is publicly available. The Response addresses the inquiry related to processing or registration of the TRADEMARK, but fails to specifically address: Name(s) of persons who were involved in, or participated in any way with, the decision to adopt, and for each such person, his/her title and the role he/she played to adopt, register and/or use the TRADEMARK. The person who</p>
2	With respect to the TRADEMARK, identify the person or persons most knowledgeable about REGISTRANT'S sales, advertising and sales promotion, adoption and use, licensing, and assignment or other transfer of rights.	Nancy Debabneh	<p>After good-faith investigation and diligent inquiry, this Special Interrogatory 2 is impossible to answer except to state that Nancy Debabneh is an authorized legal representative of International Business Legal Associates of Amman Jordan and has knowledge of Registrant's licensing of its rights.</p> <p>Discovery and investigation are ongoing and continuing.</p>	
3	Identify all persons who were involved in, or participated in any way with, the decision to adopt, register and/or use the	Al-Fakehr for Tobacco Trading & Agencies Co./ the registrant-the owner.	This Special Interrogatory seeks certain information publicly available on the TTAB website. Mr. Samer Fakhouri processed the original trademark protection and assigned the Trademark to Registrant. Nancy Debabneh is an authorized legal representative of International Business Legal Associates of Amman Jordan and has knowledge of Registrant's licensing of its rights.	



No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
	TRADEMARK, and for each such person, state his/her title and the role he/she played to adopt, register and/or use the TRADEMARK.		Discovery and investigation are ongoing and continuing.	processed the original trademark protection and assigned to Registrant may not be the same person, who was involved in or participated in any way with, the decision to adopt the TRADEMARK.
4	Describe in detail all past and existing relations, including contracts, agreements, licenses, assignments, or other relations, between REGISTRANT and any third party, including predecessor companies or individuals, related, or affiliated companies or individuals, relating in any manner to the TRADEMARK.	Plaintiff also objects to the Request on the grounds that the Request is grossly overbroad in scope as to time. Plaintiff additionally objects to this Request to the extent that it seeks information and documentation in violation of the attorney-client privilege and/or Work Product Doctrine.	<p>Respondent has objected to Special Interrogatory 4 because it seeks information outside the scope provided for under Rule 26(b)(1) and is thus, over broad. This Special Interrogatory's request is presumably includes "relations, contracts," etc. throughout the world, beyond the scope of the U.S. trademark registration territories. Even purchasers of goods could be in the category of "third party ... relating to the Trademark." Respondent's business relations with third parties in foreign territories is not relevant to the claim or defense of any party. Additionally, the request seeks information prior to the date Registrant used the Trademark in the United States, which is also not relevant. It is the United States Trademark registration that Petitioner is seeking to cancel.</p> <p>Discovery and investigation are ongoing and continuing.</p>	<p>The Supplemental Response ("Response") does not address the information requested. Additionally, the Response is non-responsive and the objections are without merit for the following reasons:</p> <p>A) Based on the arguments presented above, discovery request is certainly relevant and not overbroad. As explained above, the Petitioner is entitled to seek discovery related to the TRADEMARK beginning January 10, 1995 (and most certainly beginning January 15, 2001).</p> <p>B) Most of the documents and the information requested are likely to have been maintained as business records in the normal course of business. Information from these records must be produced.</p> <p>C) Based on the previous meet and confer letters, the Respondent knows very well that the Petitioner is not seeking information relating to retail purchasers of goods in this SI. However, if such goods were sold based on contracts or agreements, such information is relevant and must be supplied since it could demonstrate continuous, non-interrupted use of the TRADEMARK in interstate commerce.</p> <p>D) The Respondent has failed to describe in detail all past and existing relations, between REGISTRANT and any third party, including predecessor companies or individuals, related, or</p>

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
				<p>affiliated companies or individuals, relating in any manner to the TRADEMARK. This information is certainly relevant to evaluate the Petitioner's claim for cancellation based on Naked Licensing and also for Abandonment through Non-Use and Invalid Transfer of Ownership.</p>
5	<p>Describe in detail the nature of REGISTRANT'S business or businesses, including the date on which REGISTRANT first engaged in each such business outside of the United States.</p>	<p>Manufacturing and trading in Molasses (flavored Tobacco), Packaging and filling the Tobacco products; Exporting products of Tobacco and smokers' Articles worldwide; Participating in tenders. since 1999.</p>	<p>This Special Interrogatory seeks prior to the date Registrant used the Trademark in the United States, which is not relevant. It is the United States Trademark registration that Petitioner is seeking to cancel. Respondent states that Registrant's business relevant to the Trademark commenced January 10, 1995 in the Middle East and in the United States.</p> <p>As the public USPTO data base reflects, Registrant's first use is January 10, 1995 and first use in commerce is January 15, 2001. An apparent inadvertent tyographical error in earlier responses misstated a date in 1999.</p> <p>Discovery and investigation are ongoing and continuing.</p>	<p>It is interesting to note that the Respondent now claims that the previous verified response given under oath providing the date of 1999 are inadvertent typographical errors.</p> <p>The Respondent corrects the date; however it fails to DESCRIBE IN DETAIL the nature of REGISTRANT'S business or businesses. In this SI Response, it also claims that the Respondent began the use of the TRADEMARK as early as 1995, but when responding to information relating to this specific date, it argues over and over again that the Petitioner seeks information outside the scope provided for under Rule 26(b)(1) and are thus, over broad.</p> <p>The Respondent further argues that since the SI seeks information relating to its activities outside the U.S., it is overbroad. This logic simply does not make sense. The Respondent is a Jordanian company doing business within the U.S. It is likely that this Jordanian company may have been involved in business relationship outside the U.S., who may, in fact, be shipping goods to U.S. and may have been involved in commercial activities within U.S.</p>
6	<p>Describe in detail the nature of REGISTRANT'S business or businesses, including the date on which</p>	<p>Manufacturing and trading in Molasses (flavored Tobacco), Packaging and filling the Tobacco products; Exporting products of Tobacco and smokers' Articles worldwide; Participating in tenders. First</p>	<p>This Special Interrogatory seeks prior to the date Registrant used the Trademark in the United States, which is not relevant. It is the United States Trademark registration that Petitioner is seeking to cancel. Respondent states that Registrant's business relevant to the Trademark commenced January 10, 1995 in the Middle East and in the United States.</p>	<p>The Respondent must be compelled to supplement Responses. The Response to SI simply does not make sense and is non-responsive. The Respondent admits that Registrant's business relevant to TRADEMARK commenced in the Middle East and in the United States on January 10, 1995. By its own admission, it establishes that this date is relevant to this proceeding. Yet, it fails to provide information and/or describe in detail the nature of REGISTRANT'S businesses, within the United States.</p>

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
	REGISTRANT first engaged in each such business within the United States.	distributed in the United States in 1999.	Discovery and investigation are ongoing and continuing.	
7	Identify and fully describe each of the goods and/or services on or in connection with which REGISTRANT currently uses, intends to use, or has used the TRADEMARK with or without any design element or in a stylized format of any sort.	Paper, cardboard and goods made from these materials, namely, advertisement boards of paper, cardboard almanacs, announcement cards, boxes of cardboard and paper, calendars, document covers, envelopes, notebooks, writing pads, waxed paper, prints and engravings, printed timetables, paper board, wrapping paper, writing and drawing papers, pennants of paper, filter paper, packing paper, printing paper, document files, office labeling machines, posters, pictures, placards of paper and cardboard, printed paper signs, packing materials, namely, absorbent pads of paper and cellulose for use in food packaging, cardboard packaging, industrial packaging containers of paper, packaging materials for packing, packaging, namely blister cards, paper bags for packaging, paper envelopes for packaging, paper for wrapping and packaging, paper packaging and containers for food and beverages comprised of materials		

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
		<p>designed to lessen adverse effects on the environment, paper pouches for packaging, paperboard boxes for industrial packaging, plastic bags for packaging, plastic bubble packs for wrapping or packaging, plastic or paper bags for merchandise packaging, bookbindings; photographs; stationery; adhesives for stationery or household purposes; paint brushes; typewriters; office requisites, namely, paper cutters, paper knives, pencil lead holders, pencils, penholders, pens, addressing machines, plates for addressing machines, seals, stamps, cases for stamps, envelope sealing machines, letter openers, laminators, paper perforators; printers' type;</p> <p>Tobacco; cigar bands, smokers' articles, namely, cigarette paper, cigarette holders not of precious metal, tobacco pouches, pipe racks, pipe cleaners, absorbent paper for tobacco pipes, cigarette cases not of precious metal, cigar cases not of precious metal, match boxes, lighters not of precious metal, hookahs; matches</p> <p>Serving food and drinks, namely,</p>		

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
		cafes, coffee shops, cafeterias, restaurants, self service restaurants and snack bars; catering of food and drink.		
8	<p>For each of the goods and/or services identified in response to Interrogatory No. 7:</p> <p>a. Identify the first use date(s) within the United States and/or the expected first use date of the TRADEMARK with such goods or services within the United States;</p> <p>b. Identify the first use date(s) outside of the United States and/or the expected first use date of the TRADEMARK with such goods or services outside of the United States;</p> <p>c. Identify the state or geographic region where each such goods and/or services have been and/or are expected to be sold and/or</p>	<p>Petitioner objects to this request as it is compound. Without waiving these objections</p> <p>a. The goods were first used in United States in 1999.</p> <p>b. 1999</p> <p>c. Throughout the world</p> <p>d. Discovery and investigation is ongoing and continuing.</p>	<p>This Special Interrogatory seeks certain information publicly available on the TTAB website. Further, certain responsive information is contained in corporate records and are in the Middle East and are not easy to locate or obtain and contain privileged information under foreign laws. This request seeks theories and conjectures and make the identification of supporting documents impossible to ascertain.</p> <p>The goods Registrant currently uses or has used under the Trademark include the following territories through the following authorized distributors: Sierra Network, Inc., Emil Hakim, 4000 W. 139<sup>th</sup> St., Hawthorne, CA 90250, U.S.A.; Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200, Australia; Los City, Arafat Abu Khadra, <a href="mailto:Arafatco5@yahoo.com">Arafatco5@yahoo.com</a> Malaysia; Shesha Kuwait Center, Mohamad Mash' ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box 64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmatt, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asel Al Fakhama, Ali Arafaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A &amp; 31 Kenji Worth Center, Kenji Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarifraz Moubaraki, No. 20 , Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali, P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal</p>	<p>The Response does not address the information requested. The information sought can <i>never</i> be available through TTAB website. Most of the documents and the information requested are likely to have been maintained as business records in the normal course of business. Information from these records must be produced. Additionally, the Response is non-responsive and the objections are without merit for the following reasons:</p> <p>A) Based on the arguments presented above, discovery request is certainly relevant and not overbroad. As explained above, the Petitioner is entitled to seek discovery related to the TRADEMARK beginning January 10, 1995 (and most certainly beginning January 15, 2001). Additionally, the Respondent it self has admitted under oath that the Registrant's business relevant to the Trademark commenced January 10, 1995 in the Middle East and in the United States (please refer to Responses to SI Nos. 5 and 6).</p> <p>B) Additionally, the information requested is very relevant and cannot be privileged under any laws of any nation. To the extent, the Respondent claims protection of international law, the Respondent must supply specific law of the country, the statutes and sections in question, how it applies to this specific request here, and how it is applicable to the USPTO trademark cancellation proceeding. Without such detailed information, the Supplemental Response is non-responsive and conclusory.</p> <p>C) Respondent's claim of privilege under work product privilege has no basis in law and facts and is utterly in bad faith. The information sought can never be protected under work product doctrine. If it does, the Respondent must provide the</p>

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
	adverted; and d. Identify all DOCUMENTS supporting the responses to subparagraphs (a), (b) and (c) above.		<p>General Trading Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan Center KFT, Yasser Omair, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House, Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.</p> <p>Discovery and investigation is ongoing and continuing.</p>	<p>relevant case law which prohibits disclosure identification of officers and directors under work product privilege doctrine. If you still claim privilege, please identify: (1) the privilege or protection that YOU claim precludes disclosure; (2) the subject matter of the communication or information (without revealing the content as to which privilege is claimed); and (3) any additional facts on which YOU base your claim of privilege or protection. Please note that we specifically requested this information in Section A of the instructions to the First Set of Special Interrogatories, if privilege is claimed.</p> <p>D) Additionally, this proceeding began on November 21, 2007. It is unlikely that the records and /or information requested were prepared in anticipation of these proceedings.</p> <p>E) By failing to prepare and serve the RESPONSES, the Respondent has WAIVED objections and must be compelled to respond without objections.</p>
9	Describe the English meaning and derivation of the term "AL-FAKHER" as used in connection with the goods of REGISTRANT upon or in connection with which REGISTRANT has used that phrase.	Fancy		

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
10	Identify all inquiries, investigations, surveys, evaluations and/or studies conduct by REGISTRANT or by anyone acting for or on its behalf with respect to the TRADEMARK, and marks owned or used by REGISTRANT which incorporate the term "AL-FAKHER" as an element of the mark, including the date conducted, the name, address, and title of each person who conducted it, the purpose for which it was conducted, the findings or conclusions made.	Plaintiff objects to this Request to the extent that it is a premature demand for expert reports not required at this time pursuant to <i>Code of Civil Procedure</i> § 2034.	<p>The information requested is by this Special Interrogatory is impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and other acting on behalf of Respondent, all in participation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product.</p> <p>Discovery and investigation are ongoing and continuing.</p>	<p>The Response does not address the information requested. By failing to prepare and serve the RESPONSES in a timely manner, the Respondent has WAIVED objections and must be compelled to respond without objections. Additionally, the Response is non-responsive and the objections are without merit for the following reasons:</p> <p>A) Based on the arguments presented above, discovery request is certainly relevant and not overbroad. As explained above, the Petitioner is entitled to seek discovery related to the TRADEMARK beginning January 10, 1995 (and most certainly beginning January 15, 2001). Additionally, the Respondent it self has admitted under oath that the Registrant's business relevant to the Trademark commenced January 10, 1995 in the Middle East and in the United States (please refer to Responses to SI Nos. 5 and 6).</p> <p>B) Additionally, the information requested cannot be privileged under any laws of any nation. To the extent, the Respondent claims protection of international law, the Respondent must supply specific law of the country, the statutes and sections in question, how it applies to this specific request here, and how it is applicable to the USPTO trademark cancellation proceeding. Without such detailed information, the Supplemental Response is non-responsive and conclusory.</p> <p>C) Respondent's claim of privilege under work product privilege has no basis in law and facts and is utterly in bad faith. The information sought can never be protected under work product doctrine. If it does, the Respondent must provide the relevant case law which prohibits disclosure identification of officers and directors under work product privilege doctrine. If you still claim privilege, please identify: (1) the privilege or protection that YOU claim precludes disclosure; (2) the subject matter of the communication or information (without revealing</p>

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
				<p>the content as to which privilege is claimed); and (3) any additional facts on which YOU base your claim of privilege or protection. Please note that we specifically requested this information in Section A of the instructions to the First Set of Special Interrogatories, if privilege is claimed.</p> <p>D) Additionally, this proceeding began on November 21, 2007. It is unlikely that the records and /or information requested were prepared in anticipation of these proceedings.</p> <p>E) Most of the documents and the information requested are likely to have been maintained as business records in the normal course of business. Information from these records must be produced.</p>
11	Identify all documents which record, refer, or relate to such inquiry, investigation, survey, evaluation or study identified in your response to Interrogatory no. 10.	Plaintiff objects to this Request to the extent that it is a premature demand for expert reports not required at this time pursuant to <i>Code of Civil Procedure</i> § 2034.	<p>The information requested is by Special Interrogatory is impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and other acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product.</p> <p>Discovery and investigation is ongoing and continuing.</p>	<p>By failing to prepare and serve the RESPONSES in a timely manner, the Respondent has WAIVED objections and must be compelled to respond without objections. Additionally, the Response is non-responsive and the objections are without merit for the reasons outlined above (please refer to arguments under SI No. 10).</p>
12	State in detail the channels of trade in which the TRADEMARK is used and/or in which goods bearing the TRADEMARK are sold, including the	Please find attached Doc. 17	This Special Interrogatory is not completely possible to answer as the response would refer to information contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product.	<p>The Response does not address the information requested. By failing to prepare and serve the RESPONSES in a timely manner, the Respondent has WAIVED objections and must be compelled to respond without objections. Additionally, the Response is non-responsive and the objections are without merit for the reasons outlined above (please refer to arguments under SI No. 10).</p>



No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
	<p>geographic area by state, territory or possession in which the TRADEMARK is used and/or sold, the manner in which the goods or services reach the ultimate consumer, the geographical reach of each such channel, and the approximate percentage of total sales of goods and/or services through each such channel.</p>		<p>Respondent refers Petitioner to documents and other public information on the USPTO website regarding Registrant's Trademark.</p> <p>After good-faith investigation and diligent inquiry Respondent provides the following information regarding the channels of trade in which the Trademark is used and/or in which goods bearing the Trademark are sold:</p> <p>Sierra Network, Inc., Emil Hakim, 4000 W. 139<sup>th</sup> St., Hawthorne, CA 90250, U.S.A.; Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200, Australia; Los City, Arafat Abu Khadra, Arafatco5@yahoo.com Malaysia; Shesha Kuwait Center, Mohamad Mash'ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box 64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or Saamir Alhindawi, Unit 8 Hounsflow Business Park, Alice Way, TW 3 3UD, UK; Swiss General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmat, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asel Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A &amp; 31 Kenji Worth Center, Kenji Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarifraz Moubaraki, No. 20 , Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali, P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan Center KFT, Yasser Omair, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House, Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.</p>	

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
13	Identify all DOCUMENTS sufficient to support your response to Interrogatory no. 12.	Please find attached Doc. 17	<p>Discovery and investigation are ongoing and continuing.</p> <p>This Special Interrogatory is not completely possible to answer as the response would refer to information contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product.</p> <p>Respondent refers Petitioner to documents and other public information on the USPTO website regarding Registrant's Trademark.</p> <p>After good-faith investigation and diligent inquiry Respondent provides the following information regarding the channels of trade in which the Trademark is used and/or in which goods bearing the Trademark are sold:</p> <p>Sierra Network, Inc., Emil Hakim, 4000 W. 139<sup>th</sup> St., Hawthorne, CA 90250, U.S.A.; Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200, Australia; Los City, Arafat Abu Khadra, Arafatco5@yahoo.com Malaysia; Shesha Kuwait Center, Mohamad Mash'ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box 64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmat, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asel Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A &amp; 31 Kenji Worth Center, Kenji Worth 7708,</p>	<p>The Response does not address the information requested and has failed to identify all DOCUMENTS requested. By failing to prepare and serve the RESPONSES in a timely manner, the Respondent has WAIVED objections and must be compelled to respond without objections. Additionally, the Response is non-responsive and the objections are without merit for the reasons outlined above (please refer to arguments under SI No. 10).</p>

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
			<p>Cape Town, South Africa; Persain Dokhan Co., Sarlfraz Mobaraki, No. 20, Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali, P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan Center KFT, Yasser Omair, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House, Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.</p>	
14	<p>Identify the ordinary purchaser or the goods or services sold and intended to be sold under the TRADEMARK including, without limitation, the level of care exercised by such an ordinary purchaser in purchasing the goods or services sold under the TRADEMARK.</p>	<p>Please find attached Doc. 17</p>	<p>Discovery and investigation are ongoing and continuing. After good-faith investigation and diligent inquiry, this interrogatory is impossible to answer except to refer to information contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product.</p> <p>Discovery and investigation are ongoing and continuing.</p>	<p>By failing to prepare and serve the RESPONSES in a timely manner, the Respondent has WAIVED objections and must be compelled to respond without objections. Additionally, the Response is non-responsive and the objections are without merit for the reasons outlined above (please refer to arguments under SI No. 10).</p>
15	<p>Identify all third parties which have used the TRADEMARK in connection with flavored tobacco products in the United States since</p>	<p>Plaintiff objects to the Request on the grounds that the Request is grossly overbroad in scope as to time. Plaintiff additionally objects to the Request on the extent that it seeks information and documentation in violation of the attorney-client privilege</p>	<p>Respondent reaffirms its objection to Special Interrogatory 15 because it seeks information outside the scope provided for under Rule 26(b)(1) and is thus, over broad. The information requested is further impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports</p>	<p>By failing to prepare and serve the RESPONSES in a timely manner, the Respondent has WAIVED objections and must be compelled to respond without objections. Additionally, the Response is non-responsive and the objections are without merit for the reasons outlined above (please refer to arguments under SI No. 10).</p>

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
1995.	and/or the Work Product Doctrine. Furthermore, Plaintiff objects to this Request to the extent that it is a premature demand for expert reports not required at this time pursuant to <i>Code of Civil Procedure</i> § 2034.		<p>likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product.</p> <p>Without waiving its objections, Respondent provides the following regarding third parties which have used the Trademark during some or all of the relevant period of this matter:</p> <p>Sierra Network, Inc., Emil Hakim, 4000 W. 139<sup>th</sup> St., Hawthorne, CA 90250, U.S.A.; Restaurant Titanic Café, Mustafia Krich, 49 Raymond St, Bankstown NSW 2200, Australia; Los City, Arafat Abu Khadra, Arafatco5@yahoo.com Malaysia; Shesha Kuwait Center, Mohamad Mash'ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box 64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmatt, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asel Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A &amp; 31 Kenji Worth Center, Kenji Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarifraz Moubaraki, No. 20 , Majek Str., Shareeati Str., Tehran, Iran; Arnal General Trading, Ahmed Abed Allahi Ali, P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan Center KFT, Yasser Omair, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House, Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.</p>	

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
16	Identify each and every instance where REGISTRANT has licensed and/or negotiated to license, assign, or otherwise grant rights to third parties to use AL-FAKHER or any mark incorporating the term "AL-FAKHER", specifically identifying the name of the person with whom such license or negotiation occurred.	Plaintiff objects to the Request on the grounds that the Request is grossly overbroad in scope as to time. Plaintiff additionally objects to the Request on the extent that it seeks information and documentation in violation of the attorney-client privilege and/or the Work Product Doctrine. Furthermore, Plaintiff objects to this Request to the extent that it is a premature demand for expert reports not required at this time pursuant to <i>Code of Civil Procedure</i> § 2034.	<p>Discovery and investigation are ongoing and continuing. Respondent reaffirms its objection to this Special Interrogatory because they seek information outside the scope provided for under Rule 26(b)(1) and are thus, over broad. The information requested is further impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product. Further, the requested information is subject to communications with Registrant's legal counsel and is privileged.</p> <p>Without waiving its objections, Respondent provides the following regarding licenses, assignments, or other rights granted by Registrant to third parties for use of the Trademark:</p> <p>Sierra Network, Inc., Emil Hakim, 4000 W. 139<sup>th</sup> St., Hawthorne, CA 90250, U.S.A.; Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200, Australia; Los City, Ararat Abu Khadra, Araratco5@yahoo.com Malaysia; Shesha Kuwait Center, Mohamad Mash'ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box 64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmat, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asel Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf</p>	<p>The Response does not address the information requested. This SI specifically asks the name(s) of the person(s) with whom such license or negotiation occurred.</p> <p>By failing to prepare and serve the RESPONSES in a timely manner, the Respondent has WAIVED objections and must be compelled to respond without objections. Additionally, the Response is non-responsive and the objections are without merit for the following reasons:</p> <p>A) Based on the arguments presented above, discovery request is certainly relevant and not overbroad. As explained above, the Petitioner is entitled to seek discovery related to the TRADEMARK beginning January 10, 1995 (and most certainly beginning January 15, 2001). Additionally, the Respondent it self has admitted under oath that the Registrant's business relevant to the Trademark commenced January 10, 1995 in the Middle East and in the United States (please refer to Responses to SI Nos. 5 and 6).</p> <p>B) Additionally, the information requested cannot be privileged under any laws of any nation. To the extent, the Respondent claims protection of international law, the Respondent must supply specific law of the country, the statutes and sections in question, how it applies to this specific request here, and how it is applicable to the USPTO trademark cancellation proceeding. Without such detailed information, the Supplemental Response is non-responsive and conclusory.</p> <p>C) Respondent's claim of privilege under work product privilege has no basis in law and facts and is utterly in bad faith. The information sought can never be protected under work product doctrine. If it does, the Respondent must provide the</p>

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
			<p>Ibrahim, 65A &amp; 31 Kenji Worth Center, Kenji Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarlfraz Moubaraki, No. 20 , Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali, P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan Center KFT, Yasser Omair, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House, Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.</p> <p>Discovery and investigation are ongoing and continuing.</p>	<p>relevant case law which prohibits disclosure identification of officers and directors under work product privilege doctrine. If Respondent still claims privilege, please identify: (1) the privilege or protection that RESPONDENT claims precludes disclosure; (2) the subject matter of the communication or information (without revealing the content as to which privilege is claimed); and (3) any additional facts on which RESPONDENT bases its claim of privilege or protection. Please note that we specifically requested this information in Section A of the instructions to the First Set of Special Interrogatories, if privilege is claimed.</p> <p>D) Additionally, this proceeding began on November 21, 2007. It is unlikely that the records and/or information requested were prepared in anticipation of these proceedings.</p> <p>E) Most of the documents and the information requested are likely to have been maintained as business records in the normal course of business. Information from these records must be produced.</p>
17	<p>Describe in detail the nature and extent of any license or negotiation identified in your response to Interrogatory no. 16.</p>	<p>Plaintiff objects to the Request on the grounds that the Request is grossly overbroad in scope as to time. Plaintiff additionally objects to the Request on the extent that it seeks information and documentation in violation of the attorney-client privilege and/or the Work Product Doctrine. Furthermore, Plaintiff objects to this Request to the extent that it is a premature demand for expert reports not required at this time pursuant to</p>	<p>Respondent reaffirms its objection to this Special Interrogatory because they seek information outside the scope provided for under Rule 26(b)(1) and are thus, over broad. The information requested is further impermissible as the information is contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product. Further, the requested information is subject to communications with Registrant's legal counsel and is privileged.</p> <p>Without waiving its objections, Respondent provides the</p>	<p>The Response does not address the information requested. It requests the Respondent to describe in detail the nature and extent of any license or negotiation identified in SI Response No. 16. The Response is non-responsive and the objections are without merit for the reasons outlined above (please refer to arguments under SI No. 16).</p>

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
		<i>Code of Civil Procedure</i> § 2034.	<p>following regarding licenses, assignments, or other rights granted by Registrant to third parties for use of the Trademark:</p> <p>Sierra Network, Inc., Emil Hakim, 4000 W. 139<sup>th</sup> St., Hawthorne, CA 90250, U.S.A.; Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200, Australia; Los City, Arafat Abu Khadra, Arafatco5@yahoo.com Malaysia; Shesha Kuwait Center, Mohamad Mash'ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box 64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmatt, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asel Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A &amp; 31 Kenji Worth Center, Kenji Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarlfraz Mobaraki, No. 20 , Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali, P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading Company, Imad Khoury, P.O. Box 2190, Industrial Zone, Ramallah, Palestine; Sultan Center KFT, Yasser Omair, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House, Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.</p>	
18	Identify all DOCUMENTS that support or substantiate your	Plaintiff objects to the Request on the grounds that the Request is grossly overbroad in scope as to time. Plaintiff additionally	<p>Discovery and investigation are ongoing and continuing.</p> <p>Respondent reaffirms its objection to this Special Interrogatory because they seek information outside the scope provided for under Rule 26(b)(1) and are thus, over broad. The information requested is further impermissible as the</p>	The Response does not address the information requested and has failed to identify all DOCUMENTS requested. By failing to prepare and serve the RESPONSES in a timely manner, the Respondent has WAIVED objections and must be compelled to

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
	response to Interrogatory no. 17.	objects to the Request on the extent that it seeks information and documentation in violation of the attorney-client privilege and/or the Work Product Doctrine. Furthermore, Plaintiff objects to this Request to the extent that it is a premature demand for expert reports not required at this time pursuant to <i>Code of Civil Procedure</i> § 2034.	<p>information is contained in reports either prepared by employees of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product. Further, the requested information is subject to communications with Registrant's legal counsel and is privileged.</p> <p>Without waiving its objections, Respondent provides the following regarding licenses, assignments, or other rights granted by Registrant to third parties for use of the Trademark:</p> <p>Sierra Network, Inc., Emil Hakim, 4000 W. 139<sup>th</sup> St., Hawthorne, CA 90250, U.S.A.; Restaurant Titanic Café, Mustafa Krich, 49 Raymond St, Bankstown NSW 2200, Australia; Los City, Arafat Abu Khadra, <a href="mailto:Arafatco5@yahoo.com">Arafatco5@yahoo.com</a> Malaysia; Shesha Kuwait Center, Mohamad Mash' ai, Shweikh Industrial, Area 3, Section A, Number 95, P.O. Box 64914, Postal Code 70460 Shweikh 8, Kuwait; Al Fakher Co. Ltd, Arshad Mahmud or Saamir Alhindawi, Unit 8 Hounslow Buswiness Park, Alice Way, TW 3 3UD, UK; Swiss General Trading, Housam Abu Heba, Doorfmattenstrass a 6 CH-6182 Escholzmat, Switzerland; Jemat Al Fakher E.S.T., Ibrahim Asseco, RIADH – SAUDI ARABIA – Al.Helleh – Al.Helleh Str., P.O. Box 69847, Postal Code 11557 (Saudi Arabia Ofc 1); Asel Al Fakhama, Ali Arfaj, Dammam-Saudi Arabia, P.O. Box 74443, Postal Code 31952 (Saudi Arabia Ofc 2); Nile Trading, Ashraf Ibrahim, 65A &amp; 31 Kenji Worth Center, Kenji Worth 7708, Cape Town, South Africa; Persain Dokhan Co., Sarlfraz Mobaraki, No. 20 , Majek Str., Shareeati Str., Tehran, Iran; Amal General Trading, Ahmed Abed Allahi Ali, P.O. Box 4147 Djibouti, Area No. 7, Street No. 36 Djibouti; Unipal General Trading Company, Imad Khoury, P.O. Box 2190</p>	respond without objections. Additionally, the Response is non-responsive and the objections are without merit for the reasons outlined above (please refer to arguments under SI No. 16).



No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
			Industrial Zone, Ramallah, Palestine; Sultan Center KFT, Yasser Omar, 1076 Budapest, Thokoly at 26, Hungary; Fortuna Cigar House, Igor Ozhenkov, 21, Bugaevskaya Street, Odessa, Ukraine, 65005, Ukraine.	
19	Describe and explain in detail the nature of the relationship between Bassam Hamade and REGISTRANT.	An individual who falsey regisetered the mark of Respondent.	<p>Discovery and investigation are ongoing and continuing.</p> <p>This Special Interrogatory 19 is impossible to answer as Registrant has been put in the position of defending its Trademark and other proprietary rights soley due to the conduct of Petitioner. The previously provided response addressed Petitioner's request. Respondent states that no relevant "relationship" other than litigation adversaries exists between Registrant and Bassam Hamade.</p> <p>Discovery and investigation are ongoing and continuing.</p>	The Response does not address the information requested. It requests the Respondent to describe in detail the nature of relationship between Bassam Hamade ("Hamade") and REGISTRANT. The Response is non-responsive and the objections are without merit for the reasons outlined above (please refer to arguments under SI No. 16). Furthermore, the Respondent affirms by stating that the previously provided response addressed Petitioner's request. The previous response stated that Hamade is the one who falsely registered the mark of the Respondent. If that was the case, there must be some communication exchanged between Hamade and the Registrant regarding these issues, which will describe the nature of relationship the between them.
20	Describe and explain in detail the nature of the relationship between Nadine Hamade and REGISTRANT.	N/A	<p>This Special Interrogatory 20 is impossible to answer as Registrant has been put in the position of defending its Trademark and other proprietary rights soley due to the conduct of Petitioner, who is likely the party who has a relationship with Nadine Hamade. Thus, no relevant "relationship" other than litigation adversaries exists between Registrant and Bassam Hamade or between Registrant and Nadine Hamade.</p> <p>Discovery and investigation are ongoing and continuing.</p>	
21	Describe and explain in detail the nature of the relationship between Omar Khaled Sarmini	Omar Khalid Sarmini had sold his trademark (Al-Fakher) to the Registrant.	<p>Discovery and investigation are ongoing and continuing.</p> <p>This Special Interrogatory 20 is impossible to supplement with a further answer as the response previously provided addressed the relevant relationship between Registrant and Omar Khaled Sarmini, which consists of the sale and transfer of business asset.</p>	The Response does not address the information requested. It requests the Respondent to describe in detail the nature of relationship between Omar Khaled Sarmani ("Sarmani") and REGISTRANT. The Response is non-responsive and the objections are without merit for the reasons outlined above (please refer to arguments under SI No. 16). Even though the

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
	and REGISTRANT.		Discovery and investigation are ongoing and continuing.	Respondent admits that there was sale and transfer of business asset, it failed to provide relevant information relating to such sale and asset transfer. The SI requests to describe in detail the nature of the relationship, not just the context of the relationship.
22	Describe and explain in detail the nature of the relationship between AI-Fakher Trading Company, L.L.C., and REGISTRANT.	The Registrant is the owner of al-Fakher Trading Company LLC.		
23	Describe and explain in detail the nature of the relationship between Sierra Network, Inc. and REGISTRANT.	Sierra Network, Inc. is the exclusive distributor of the Registrant's products in the United States.	<p>This Special Interrogatory 23 is impossible to supplement with a further answer as response previously provided addressed the relevant relationship Petitioner queried between Registrant and Sierra Network, Inc.</p> <p>Discovery and investigation are ongoing and continuing.</p>	<p>The Response does not address the information requested. It requests the Respondent to describe in detail the nature of relationship between Sierra Network, Inc. ("Sierra") and REGISTRANT. The Response is non-responsive and the objections are without merit for the reasons outlined above (please refer to arguments under SI No. 16). Even though the Respondent admits that Sierra is the exclusive distributor of the Registrant's products in the United States, it DOES NOT provide any information relating to such relationship. For e.g. When did Sierra become the exclusive distributor? What are the terms and conditions of this distributorship? Under what conditions, can it be terminated? How long? What does it relate to? What products are covered? What is the financial arrangement between the parties? The SI requests to describe in detail the nature of the relationship, not just the type of the relationship.</p>
24	Identify each statement or opinion obtained by or for REGISTRANT regarding any issue in this cancellation	Plaintiff objects to the Request on the grounds that the Request is grossly overbroad in scope as to time. Plaintiff additionally objects to the Request on the extent that it seeks information and documentation in violation of	<p>Respondent reaffirms its objection to Special Interrogatory 24 because it seeks information outside the scope provided for under Rule 26(b)(1) and is thus, over broad.</p> <p>After good-faith investigation and diligent inquiry, this interrogatory is impossible to answer except to refer to information contained in reports either prepared by employees</p>	<p>The Response does not address the information requested. It requests the Respondent to identify each statement or opinion obtained by or for REGISTRANT regarding issues in this cancellation proceeding. The Response is non-responsive and the OBJECTIONS are without merit for the reasons outlined above (please refer to arguments under SI No. 16). As explained above, if Respondent claims privilege, it must follow</p>

No.	Interrogatory	Response	Supplemental Response	Reasons Why Supplemental Responses Are Deficient
	proceeding including, but not limited to, whether the statement was oral or in writing, and identify all documents which record, refer to, or relate to such statement or opinion.	the attorney-client privilege and/or the Work Product Doctrine. Furthermore, Plaintiff objects to this Request to the extent that it is a premature demand for expert reports not required at this time pursuant to <i>Code of Civil Procedure</i> § 2034.	of Respondent or accountants and others acting on behalf of Respondent, all in anticipation of litigation. The authors of these reports could likely be used as experts. The reports likely contain the authors' conclusions, opinions and recommendations, which is considered protected work-product. Additionally, while Petitioner claims the impermissibly requested information is "relevant," such "relevance" does not defeat privileged communications between Registrant and its legal counsel.	certain guidelines outlines under FRCP and supply the Petitioner with a privilege log providing detailed information.
25	Identify each person who participated in or supplied information used in any of the above interrogatories; beside the name of each such person, state the number of the interrogatory answer(s) with respect to which that person participated in or supplied information.	All the answers were from Al-Fakher for Tobacco Trading & Agencies co. Ltd.	Discovery and investigation are ongoing and continuing. Emil Hakim, on behalf of Sierra Network, exclusive U.S.A. distributor for Registrant, participated in preparation of these Special Interrogatories.  Discovery and investigation are ongoing and continuing.	The Response to this SI demonstrates that Respondent has not been forthcoming with the requested information. Emil Hakim ("Hakim"), CEO of the Sierra Network, Inc., who verified the Responses on behalf the Respondent, Al-Fakher For Tobacco Trading & Agencies Co., Ltd., is an exclusive distributor in the United States only since the Respondent acquired the TRADEMARK rights (i.e. late 2006). Interrogatories seek very relevant information relating to this proceeding that dates back to 1995 (and in the best case scenario to 2001). In Response to SI Nos. 5 and 6, the Respondent admitted that the Registrant's business relevant to the TRADEMARK commenced on January 10, 1995 in the Middle East and in the United States. How can a distributor, who started its business relationship with the Respondent only in 2006 (at the earliest), VERIFY the Responses on its behalf for the facts and circumstances surrounding events that took place in late 1995 or early 2000? On the other hand, if Hakim verified this on behalf of Registrant based on the information that he obtained from Registrant's employees, then Hakim must provide the name of each such person who supplied such information to him. This information is very relevant for deposition purposes and Hakim, Sierra or their attorneys cannot withhold such information. Registrant must be compelled to supplement its Responses.